IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13524 of 2004

Between:

S.Bayyapu Reddy, S/o.S.C.Bayyanna, 53 years,
Primary Health Centre, Kazipet, Kadapa District.

...PETITIONER

AND

1. The District Collector, Kadapa District, Kadapa.
2. The Mandal Revenue Officer, Kazipet Mandal, Kadapa District.
3. Smt.Malle Venkatamma, W/o.Sri Balaiah, Nandipadu,
   H/o.K.Sunkesula, Kazipet Mandal, Kadapa District.
4. Smt.Bathala Nagamma, W/o.Subbanna,
   Nandipadu Village, H/o.K.Sunkesula, Kadapa District.
5. Smt.Vallepu Ankalamma, W/o.Venkata Subbaiah,
   Nandipadu Village, H/o.K.Sunkesula, Kadapa District.
6. Smt.Vallepu Venkata Ramanamma, W/o.Venkata Subbaiah,
   Nandipadu Village, H/o.K.Sunkesula, Kadapa District.
7. Smt.Vallepu Venkata Lakshumma, W/o.Ramaiah,
   Nandipadu Village, H/o.K.Sunkesula, Kadapa District.
8. Smt.Vallepu Venkata Subbamma, W/o.Subbaiah,
   Nandipadu Village, H/o.K.Sunkesula, Kadapa District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or an appropriate writ more particularly in the nature of Writ of Certiorari calling for the records leading to issue of the ownership certificates to the respondents No.3 to 8 in Re.No.A/188/2003, dated 08.07.2003 of the Mandal Revenue Officer and quash the same by holding that the issue of the ownership certificates to the said respondents is violative of the law, the judgment of the Hon'ble Civil Court in O.S.No.28 of 2000 dated 20.04.2002 and in O.S.No.237/2003, violative of the provisions of A.P.Occupants of Homesteads (Conferment of Ownership) Act, 1976 and with a direction to the Official respondents to retain and continue the petitioner and ownership and possession of the said land as if the impugned ownership certificates were never granted with all consequential benefits.

Counsel for the Petitioner: MR.GOPALA RAO GANDRAKOTA

Counsel for the Respondents 1 and 2: GP FOR REVENUE

The Court at the admission stage made the following:

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ORDER:

The petitioner claims to be owner of land admeasuring 0.17 cents in Survey No.313/3 of Kazipet Mandal, Kadapa District. In the year 2003, when an attempt was made by the Mandal Revenue Officer (for short 'the MRO') to issue occupancy certificates to third parties, who are allegedly in possession of the lands and raised constructions, he filed a Writ Petition being W.P.No.19351 of 2003 questioning the notice dated 06.05.2003. This Court having regard to the provisions of Sections 4 and 6 of the A.P.Occupants of Homesteads (Conferment of Ownership) Act, 1976 ('the Act' for brevity), disposed of the Writ Petition giving liberty to the petitioner to file his reply to the notice, dated 06.05.2003 and the second respondent herein was directed to consider all contentions of the petitioner. The petitioner also filed a Contempt Case being C.C.No.267 of 2004 alleging that the orders of this Court in W.P.No.19351 of 2003 dated 15.09.2003 were disobeyed. Further, it is brought to the notice of this Court that the MRO has already issued an order on 08.07.2003 allegedly after conducting enquiry and considering the objections filed by the petitioner on 07.07.2003. The petitioner was also given liberty to question the proceedings dated 08.07.2003 of the second respondent "if the same is passed contrary to the provisions of the Act and Rules made there under". Thereafter the petitioner obtained as many as six (6) ownership certificates issued under Rule 5 of the A.P.Occupants of Homesteads (Conferment of Ownership) Rules, 1975 ('the Rules' for brevity) challenging the proceedings as well as the ownership certificates dated 08.07.2003. However, the petitioner has not annexed a copy of the proceedings dated 08.07.2003 alleging that he is not able to produce the copy of the order, as he could not get the same.

Learned counsel for the petitioner raised various contentions and also relied on the judgment and decree passed by the Junior Civil Judge, Kadapa in O.S.No.28 of2000. The learned counsel however does not dispute that except the Court decree, which is for perpetual injunction, no document or title or evidence in proof of possession has been annexed to the Writ Petition. Be that as it is, if any order is passed by the MRO, an appeal would lie under Section 8 of the Act before the

Revenue Divisional Officer (for short 'the RDO'), having jurisdiction over the matter. All questions raised herein including the allegation that no enquiry was conducted by the MRO can be gone into by the appellate authority. Liberty is given to the petitioner to appeal under Section 8 of the Act within a period of two (2) weeks from the date of receipt of a copy of this order. As and when such appeal is filed, the RDO shall decide the matter in accordance with law within four (4) weeks from the date of such application. The petitioner shall cooperate with the RDO. In this Writ Petition, no relief can be granted as prayed for.

The Writ Petition, with the above observations and directions, is disposed of.

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(V.V.S.RAO, J)

3rd August 2004

NOTE:

CC by 09.08.2004

B/O

RRB

Copies To:

1. The District Collector, Kadapa District, Kadapa.
2. The Mandal Revenue Officer, Kazipet Mandal, Kadapa District.
3. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.